

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.711 OF 2019
WITH
CIVIL APPLICATION NO.848 OF 2019**

Babuprasad Shivbalak Dubey	...	Appellant
Versus		
Nandini Sadashiv Dubey		
Nee Nandini alias Nandu		
Ramchand Patil		
And Others	...	Respondents

.....

Mr. Sanjiv A. Sawant i/b Mr. Abhishek P. Deshmukh for the Appellant.
Mr. Bhushan Walimbe i/b Mr. Pritam Thakur for Respondent Nos.8 and 9.

.....

CORAM : S.C. GUPTE, J.

DATE : 10 OCTOBER 2019

P. C. :

. This Appeal from Order challenges an order passed by the Court of Civil Judge Senior Division at Palghar on an interlocutory application, being Exhibit '144' in Special Civil Suit No.58 of 2016.

2 After the matter is heard at some length, learned Counsel for the parties agree that the impugned order passed by the trial Court below Exhibit '144' may not be disturbed; instead the court be requested to expeditiously hear the main application, i.e. application being Exhibit '5' pending before the trial court, keeping all rights and

contentions of the parties on merits of the application open. It is ordered accordingly.

3 The Court of Civil Judge Senior Division at Palghar shall take into account all contentions of the parties including submissions of Plaintiff No.1 based on the judgment of Allahabad High Court, Lucknow Bench in the case of **Nandini Sadashiv Dubey Vs. State of U.P. Thru. Secretary, Revenue Deptt.**, passed on 20 March 2017. All contentions on the merits including applicability of the law stated by Allahabad High Court in the case cited by Plaintiff No.1, are kept open. At the joint request of the parties, hearing of the application, Exhibit '5' in Special Civil Suit No.58 of 2016 is expedited. The court is requested to dispose of the application preferably within a period of twelve weeks. The Appeal from Order is disposed of in the above terms.

4 In view of the disposal of the appeal, the Civil Application does not survive and is disposed of.

(S.C. GUPTE, J.)